This draft was sent to me, John David Hulchanski, a professor at the University of British Columbia at the time, by Peter for comment. In 1988 I published an article that covered some of the same issues:

- Hulchanski, J.D. (1988). The evolution of property rights and housing tenure in post-war Canada: Implications for housing policy. *Urban Law and Policy*, 9(2), 135-156.

1992 and 1994 papers by Peter: "Property Rights, Housing, and Changing Societal Systems: Notes Towards a Discussion of the Issues in Eastern Europe," Paper presented at Conference on Property Rights, M.I.T., Cambridge, Mass, March, 1992.

"Privatization, Tenure, and Property Rights: Towards Clarity in Concepts." in Ingemar Elander, ed. *Social Rented Housing in Europe - Policy, Tenure and Design*, The Netherlands, Delft University Press, 1994.

September 28, 1990
Peter Marcuse

Notes for a discussion of legal issues of "ownership" in housing

I. Importance of "ownership" concepts. In the transition from socialism to capitalism, the hottest and longest-lasting conflicts are likely to be about ownership--and the form of ownership provided for by the legal system is likely to be crucial is determining who owns and what rights that ownership gives them. Marxist theorists saw the point, probably too late; in a book-length analysis published in early 1990, Michael Brie writes (and underlines):

> In all socialistic countries the qualitative development of the relations of ownership, the change in their content and the forms of implementation of socialist ownership, have moved into the center of the societal strategies of the ruling communist parties.[1]

More important than the societal strategies of the communist parties today, however, are the direct interests of milions of residents of housing in Eastern Europe that has been till now owned, managed, and used on principles considered socialist. In everyday life, those living in previously "socialist" systems see their rights in the housing they occupy likely to undergo radical change, and their concerns are mounting to real political force. In agriculture, the question of who "owns" the land on which cooperatives, individual farmers, state enterprises, produce, is crucial to their future. Most decisively, the question of who "owns" factories, stores, workshops, transportation facilities, is crucial for the economy as a whole. Indeed, the "ownership" of the means of production has always been taken as a central question for the whole socialist enterprise, and it could well be argued that the failure to solve that problem was the root failure of the attempts to establish socialism in the countries of Eastern Europe. Yet remarkably little attention has been paid to what the various possibilities are, very little use

1. Brie, Michael. 1990. Wer ist eigentümer im Sozialismus? Berlin (G.D.R.), Dietz Verlag, p. 10.

Related by Peter Marcuse:

- "Tenure and the Housing System: The Relationship and the Potential for Change," Working Paper 209-8-4, Urban Institute, 1973 (co-author Richard Clark).
- "New Forms of Residential Tenure and Their Implications for Housing in Emerging Nations," ITCC Review, Association of Engineers and Architects in Israel, Supplement to Vol. IV, No. 3, (15), July 1975.
- "Residential Alienation, Home Ownership and the Limits of Shelter Policy," Journal of Sociology and Social Welfare, Vol. III, No. 2, November 1975, pp. 181-203.
- "The Ideologies of Ownership and Property Rights," in Housing Form and Public Policy in the United States, Columbia Monographs on Architecture, Preservation and Planning, Praeger Publishers, 1980.

- "Property Rights." in Bernd Hamm et al, eds. Sustainable Development and the Future of Cities. Trier: Centre for European Studies, University of Trier, 1992. Also in: Bernd Hamm and Pandurang K. Muttagi,1998. Sustainable Development and the Future of Cities. New Delhi: Oxford and IBH Publishing Co.
- "Privatization and its Discontents: Property Rights in Land and Housing in Eastern Europe." in Andrusz, Gregory, Michael Harloe and Ivan Szelenyi, eds. Cities After Socialism: Urban and Regional Change and Conflict in Post-Socialist Societies. London: Blackwell. 1996

has been made of the extensive discussions in the legal literature both in traditional Western jurisprudence and in Marxist theory as to what ownership means and what role it plays.

In this brief paper, I wish merely to sketch out some of the problems that need to be dealt with in clarifying the concept of ownership. I shall try to do so in an immediately practical way, that is to say, highlighting the difference that varying answers to questions about ownership will make for those living in countries moving from real existing socialist to predominantly capitalist forms. I believe the discussion is relevant also, however, to debates in Western "really existing market" economies; the discussions about the "recommodification" of housing, for instance, the calls for "decommodification," and the debates about the role of the public sector and the desirability of home ownership, all contain hidden, and often fallacious, assumptions about what "ownership" actually is and what the range of forms is that it might take.

II. Distinctions among types of property "owned." Ownership of different kinds of property, to begin with, must be clearly distinguished; a huge amount of mischief has been created by taking categories of ownership appropriate, for instance, to land, and applying them to housing units, or forms appriate for consumption goods and applying them to machinery and tools for production. I believe five very different concepts of ownership need to be distinguished, as they apply to:

** agricultural land. This is the oldest form of private property, going back in uninterrupted lineage to feudal systems.[2] The revolt against the feudal land ownership system was a necessary part of the transition to capitalism. In political development, the establishment of an independent yeomanry in England, the tradition of independent farmers and settlers in the United States, the failures to provide for

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2. The Roman system of property law was substantially more advanced than its feudal replacement in Europe, but it remained a curiously alien system to at least the Anglo-Saxon evolution to this day.

individual farmer's land ownership in Russia (and in the South of the United States), the compromises preserving aristocratic land ownership in Prussia and much of the Austro-Hungarian empire, all were critical elements in determining the political as well as economic course of those countries into the twentieth century.

By the same token, the misunderstanding (sometimes deliberate and certainly often self-serving) of this evolution to equate home ownership by city residents with land ownership by independent working farmers has plagued discussion of "tenure forms" for at least 100 years. When the president of the National Association of Real Estate Boards, for instance, says:

> [The] far-seeing founders of our Republic...[visualized] a race of free men, made independent by individual ownership of the land. Life has indeed grown more intricate... butnever has arisen any sound reason toquestion the ideal that goes to the heart of our economic existence--widespread home ownership.[3]

the easy substitution of "home ownership" for "land" conceals the fundamental historical shift: in the 18th century, individual ownership of land meant individual ownership by the farmer of his basic means of production, while today home ownership is an exclusively residential concept having nothing to do with production at all.[4]

** urban land. The rules of law applied to agricultural land have been taken over to apply to urban land is all capitalist countries, and,

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3. Quoted in Dean, Home Onership: Is it Sound?, p. 3, and de Neufville and Barton, p. 5.

4. For a further discussion, and in particular a comment on how the concept "tenant" and the "renters' revolts" in early New York history, different from what similar terms would suggest today, see Marcuse, review of Allan Heskin, Tenants and the American Dream: Ideology and the Tenant Movement, New York, Praeger.

susrprisingly, in all socialist countries as well.[5] Yet the logic is entirely different, the interests affected are different, the economic result is different. For productive activity, the rent paid a landowner is a redistribution of value from producer to landowner, considered by many orthodox free market economists to be a parasitic drain on productive capital. Market prices for land as a method of allocating land among alternate uses and users plays an important role in city development in capitalist countries; it is however nowhere allowed free play in the planning of cities. A much more differentiated treatment of urban land would benefit cities in Western as well as Eastern countries.

** means of production.[6] Ownership here has traditionally meant, for Marxists, the right to extract surplus value from the labor of employees; the craftsman or craftwoman's tools are (sometimes with elaborate intellectual gymnastics) differentiated from the capitalist's machines. In capitalist countries, the costs of acquisition and the possibilities of financing are intimately connected with legal forms of ownership, and very sophisticated forms of leasing and pledging have developed to integrate ownership forms into a functioning economic system.

** consumption goods. In developed capitalist systems, ownership here is again indistinguishable from ownership of other forms of property.[7] In most of the Eastern European countries, following both the orthodox interpretations of Marxist theory and the example of the Soviet Union,

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5Agricultural land has indeed been specially treated, in some statutes, e.g. for the preservation of agriculture and the restriction of urban development, but always as modification of a single system of rules governing all land.

6. The distinction between ownership of the means of production and ownership of consumption goods goes back to the fundamental works of Marx and Engels; see Anti-Dühring, in Marx-Engels Werke, vol. 20, pp. 122-3.

7. Particular rights and immunities attach to particular forms of personal property, e.g. in the United States exemption from certain forms of taxation, immunity from attachment under Homestead laws, etc., but these are again exceptions to an underlying uniformity of treatment, not a different category of ownership.

"personal property," essentially goods for individual use and consumption, are the only kinds of private property allowed; their protection is generally, as in the G.D.R., provided for in the Constitution itself.

** housing. Housing is both a particular form of a consumer good, a particularly large and expensive result of productive enterprise for others, and, particularly in its connection with land, a source of rent for sunk investment or for land owned. Because it differs from other "personal property" in these respects, specific rules have been developed in the countries of real existing socialism to deal with the "non-use" aspects of housing: prohibitions on private resale, for instance, or limitations on rent that may be privately charged, or public responsibility for production.

III. Housing tenure and "ownership." While the term "tenure" might be used to describe the different forms of ownership applicable to housing, that is not the way the term is used in most current discussions, where it is generally assumed that "ownership" is a single and individsible concept and that the distniction among tenures is a distinction based on who "owns" a given unit of housing: in private rental housing, a private person/entity other than its occupant "owns" the unit, in owner-occupancy the occupant is the "owner," in public rental housing the state is the "owner," in social or not-profit housing the "owner" is a social or non-profit entity. A focus on who has what

The forms of ownership that may be applied to the last

of these categories, housing--the forms of tenure--can be listed by name, but the content of each will vary widely by economic system, historic tradition, constitution and statute, and judicial interpretation.

- Individual ownership of detached single-family units;

- Individual ownership of apartment units for the owners own use, in multi-family buildings (called condominium ownership in United States law.

- Cooperative ownership, within which many variations can be distinguished, the major line of difference being:

    - cooperative private ownership, in which the individual's right of ownership can be sold privately for an unrestricted profit; and

    - non-profit cooperative ownership (or limited equity cooperative ownership), in which the right to sell for a profit is limited or non-existent.

- Non-profit organizational ownership, within which many variations can be distinguished, the major lines of difference being:

    - publicly-owned (national, state, or municipal) corporations, or those a majority of whose directors are publicly appointed;

    - charitable organizations;

    - employer-established or controlled organizations;

    - limited profit organizations, or organizations whose housing is non-profit only for a limited period of time, or whose dynamics otherwise are similar to those of profit organizations (e.g. high salaries for executives, speculation, etc.)

- direct public ownership, by a branch of local, state, or national government;

- private ownership for use by others than the owner, i.e. of rental units.

- collective, "social," "socialist," "people's" ownership, a category inherently antithetical to traditional capitalist concepts of ownership, whose closest analogy in Western law, judging fromthe experience of the

German Democratic Republic in trying to reconcile ownership rights in "Volkseigene Betriebe" (people's own enterprises) with the legal system of the Federal Republic of Germany was the creation of a public trusteeship to take title of such enterprises, converting it essentially into state ownership. The concept was never satisfactorily developed in Eastern European societies either, however; Gorbachow, for instance, spoke of property in socialist ownership as being considered by many as being without any owner at all, and thus, by implication, available for exploitation by anyone so inclined.[8]

IV. What does "ownership" mean, legally? Definitions are critical here, however. What these forms of tenure imply can varyy enormously within these formal categories. The differences involve, in each case, different relations among people; it is a fundamental principle of jurisprudence that ownership is

> a set of relations among persons and institutions with regard to a thing

--not, as is often assumed in ordinary conversation, a relationship between a person or institution and a thing.

> The law of ownershipisnot a set ofrules fixing what I may ormay not dotoa thing but a set ofrules fixing what other people may ormay not prevent me fromdoing tothe thing, and what I may or may not prevent them from doing to the thing.[9]

Such a definition of ownership is, I think, consistent both with traditional Western jurisprudence and Marxist theory.

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8. Speech at the Plenum ofthe Central Committee of the C.P.S.U., Moscow, January 28, 1987; cited in Brie, p. 10.

9. Turner, J. W. Cecil, 1941. "Some Reflections on Ownershipin English Law," XIX Canadian Bar Review, May.

The analysis of ownership and the various tenure forms must then begin with a specification of exactly what relations among what persons each tenure form implies. This is the "bundle of rights" concept, well accepted at least in Anglo-Saxon law: that ownership or any other form of tenure is a collection of separate rights, and that each form of tenure can be defined by a specification of what rights it includes. Here the term "incidents of ownership" is used to denote this concept that ownership is in fact a "bundle of rights."

To help look at what kinds of rights, and by and against whom, are involved, I believe the most helpful as well as most rigorous approach is that developed by Professor Hohfeld,[10] largely followed in the standard legal discussin in the United States,[11] who distinguishes among the

Right

benefits of ownership: rights, privileges, powers, and immunities,

and among the

Duty

obligations or limitations on ownership: duties, "no-rights," liabilities, and disabilities.

The terms are symmetrical:

> "Right" is the present existence of a legal obligation on the part of a someone else to underake or not to undertake a given act; that other person's obligation is a "duty." Example: I have a right not to have water from my neighbor's land inundate mine; my neighbor has a duty not to change the grade of hisland so as to dump water on to mine.

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10. Hohfeld, Wesley Newecomb, 1966. Fundamental Legal Conceptions as Applied in Judicial Reasoning. New Haven, Yale University Press (first published 1916).

11. Restatement of the Law of Property, 1936. Adopted and promulgated by the American Law Institute, St. Paul, American Law InstitutePublishers, May.

"Privilege" is the exemption from a duty to another, the situation when when no one else has the right to require or to prevent the doing of a given act; the correlative obligation is a "no-right." Example: I have the privilege to build a house on my land; my neighbor has a "no-right" to prevent me from doing so.

"Power" is the legal ability, by the taking of a voluntary action, to change another person's legal relationships or toimpose on the other person an obligation; subjection to the power of another creates a "liability." Example: I have the power to petition for the construction of sidewalks on my street; my neighbor is liable for his pro rata share of the cost if I exercise that power.

"Immunity" is the exemption from a liability, and when it exists another person has a corresponding "disability." Example: if persons over 65 are exempt from having sidewalks built in front of their house, and my neighbor is over 65, he has an immunity from the obligtion to pay, and I am disabled from forcing the sidewalk to be built in front of his house.

The concepts are rather complex and take getting used to, but provide one logical approach to a precise specifications of the characteristics of various forms of ownership and of tenure.[12]

Ownership of course has meaning for most people quite apart from its actual legal significance. Feelings of ownership, and particularly of housing, are the antithesis of feelings of alienation; what is owned is not alienated, and vice versa. Much of the value placed on home ownership stems from this connection.[13] But the discussion here will be limited to the narrower legal

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12. For a more detailed discussion, see Marcuse, Peter. 1972. "The Legal Attributes of Home Ownership." Washington, D. C., The Urban Institute, April 13, Working Paper #209-1-1, esp. p. 21ff.

13. For a fuller, although still tentatiave, discussion, see Marcuse, Peter, 1975. "Residential Alienation, Home Ownership and the Limits of Shelter Policy," Journal of Sociology and Social Welfare, Vol. III,x. 2, November. pp. 181-203. For a similar view from a different perspective, with recent empirical evidence, see Saunders, Peter. 1989. "The Meaning of 'Home' in Contemporary English Culture." Housing Affairs, vol. 4, no. 3, July.

issues.

V. What can "ownership" mean--what are the incidents of ownership--as applied to housing? Those characteristics that must be taken into account in trying to understand what form of tenure is desired, or what the consequences of a particular change in legal forms of ownership will be, include the following, which I would consider the seven key incidents of ownership:[14]

Privilege to Occupancy and shelter

Privilege to broader uses, privilege not to have use restricted

Security, privilege of continued occupancy; immunity from eviction, right to protection in occupancy

Privilege of Privacy, not to have other invade unit

Privilege to modify,make physical changes to the unit,
Disposition

Right of Exclusion of others;[15]

Rights to residential services, utilities

Privilege of disposition, as gift or sale, immunity from restrictions

Duty of maintenance and repairs

Right to public subsidy or support, immunity from payments to the state.

14A fuller elaboration may be found in: Marcuse, Peter. 1972. "The Legal Attributes of Home Ownership." Washington, D. C., The Urban Institute, April, Working Paper #209-1-1.

15. See Confusion #1 below.

In addition, ancillary rights often are established for ownership, ranging from the right to vote to the receipt of various inds of public benefits, subsidies, etc.

The various combinations of these rights, privileges, powers, and immunities, the extent to which each exists, who may have each, and against whom, should suffice to describe precisely the alternative forms of housing tenure that may be contemplated.

VI. Legal concepts of "ownership" in different social systems. Legal forms of ownership reflect basic societal oonfigurations; they are particularly important in housing and urban development. Pervasive private ownership, using property rights as the basic concept underlying the use and benefit of production as well as consumption goods, services, and intangibles, as well as physical objects, all protected by strong judicial and constitutional guarantees, are characteristic of a private market. "Ownership" in a non-market lsystem is an inappropriate concept; rights are of necessity socially planned and allocated, not subject to exchange or transfer. To Western observers, thus, it appeared that there was no coherent system of ownership developed in the G.D.R. for the protection of property rights or their exchange or transfer. They searched for forms of decentralized ownership, limited equity cooperatives, rights of workers in factories, city or neighborhoods, or resident property rights in housing and community facilities and infrastructure, such as exist in partial form in limited sectors in several private market countries, but found none. The lack of such alternataive ownership forms is a cause of major societal problems in the G.D.R. today.

But "ownership" is not an appropriate concept to begin with in a social market or in a non-market system.[16] In the G.D.R., for example, as in most real

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16. In a non-market absolutist system, also, the legal forms and protections for private ownership are inappropriate: Ceaucescu has no need of them, the peasants are not entitled to them.

existing socialist states, ownership of consumption goods for use is developed and protected, private ownership in the means of production is disallowed. Public control is substituted for private ownership in all non-use fields, for all "non-personal" property. The legal categories of ownership, seen as ways in whichprivate individuals can exercise power over other private individuals with respect to commodities, in which the state can be treated legally as simply another private owner, are categories inappropriate to a socialmarket. The more appropriate formulation of the equivalent relations between individuals in a social market system should be found in the political sphere, in which "public ownership" volkseigentum, is clearly linked to citizens' rights of decision-making in participatory as well as representative (parliamentary) form. It is the presence of Volkseigentum with the absence of particpatory decision-making that created the perhaps fatal tension within the 40-year system of the G.D.R..

only if there is real democracy

VII. Confusions about "ownership." It may be useful, as a stimulus to discussion, to list some of the confusions that now exist in many formulations:

A. "Ownership" means the right to exclude, private property means an exclusive individual right to that property.

Ownership means both more (example: rights to have others not limit access, rights) as well as less (only some persons may be excluded, and only by some means, under some conditions).[17]

B. Personal rights and property rights are different, personal rights should have priority.

But property rights are rights of persons.

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17. "...property isusually treated as identical with private property, an exclusive individual right,my right to exclude you from some right or benefit of something...[that] is a genuine misconception, which affects the whole theoretical handling of the conceptof property by many modern writers." Macpherson, p. 2. quoted in Hulchanski, p. 138.

C. Property is a thing.

Property is a right (a relationship among people) relating to a thing.[18]

D. Home ownership is fundamentally different from home renting

But every right and owner has can be provided in a leases; and the benefits to the occupant of both lease and ownershipdepend entirely on the social content accorded these forms by the state.

E. The fullest protection for home ownership can only be provided in a legal system that accords full protection to all rights of ownership in private property, i.e. in businesses, land, also.

But personal property ownership and private property ownership can be readily distinguished, and are distinguished in a number of existing legal systems. Personal ownership of housing does not require privatization of the economy.

F. Everyone would like to be a home owner.

But many are homeowners because they have no alternative way of obtaining the housing they want[19] (often single-family homes, the desire for which is often confused with a desire for homeownership.)

G. Actions not sanctioned by law are illegal; that includes most informal activity in housing in many Eastern European countries.

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18. "In current common usage, property is things; in law... peoperty ios not things but rights, rights in or to things." Macpherson, p. 2, quoted in Hulchanski, p. 138. Even this formulation is today too narrow; property rights have been recognized in non-"things:" under copyright or patent laws to music, art, ideas; in public law to rights to benefits provided by the state. cf. Reich, "The New Property."

19. See Netherlands Journal of Housing, vol 3, No. 3, 1988, p. 254.

But "illegal" should be resricted to those actions punishable by law; actions may be void, commitments unenforceable, but not illegal. Much blackmarket activity and almost all informal activity in the housing sector is not illegal.

H. Squatting, the taking of possession/entering into occupancy of a housing unit without the permission of its owner, is by definition illegal in all legala systems.

But whether squatting is illegal,either punishable or making the squatter subject to eviction, is a function of the provisions of substantaive law, and a aystem may certainly be envisaged (and probably existed) in which squatting is legally sanctioned behaviour.

I. Everybody knows what a cooperative is.

But there are critical differences among various forms of cooperative; in particular, speculative cooperatives may be considered a variation of speculative individual ownership, and non-speculative (limited equity) cooperataives a form of non-profit ownership.

J. The basic forms of tenure, whatever the system, are public rental, private ownership, and private rental.

But those three categories reflect very poorly the range of combinations of rights in housing which may be conceived; distinctions within each tenure in the distribution of the incidents of occopancy may be much greater than the distinctions between these "tenure forms.

K. Ownership must be either public or private.

But ownership can be private, personal, collective, people's (volk), communal, state, non-profitable, charitable; and the various incidents of ownership may involve various combinations of these.

L. In order to attract Western investment in East European housing, the legal structures of Western Europe or the United States must be adopted.

But adequate protection can be given Western investment in Eastern Europe without such measures; the level of protection depends entirely on state policy, not legal forms.[20]

M. A market in housing necessarily involved the ability of owners to speculate in property.

But a legal system may provide for non-speculative ownership. Income taxes, capital gains taxes, land taxes, excess profits taxes, anti-speculation taxes, deed restrictions, financing provisions, rights of first refusal, eminent domain provisions, public purchase of property, land banking, nationalization of land and/or housing, rent control, controls on use, all, to one extent or another, limit or prevent speculation. defined as profit from an increase in value as a result of events other than investment or effort of the owner in the improvement of the property.

N. The right to sell and make a profit is the fundamental definition of ownership.[21]

But the right to sell, etc., is only one of many incidents of ownership, and in any event is variously restricted in all systems. When a mortgagor is

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20. A Westport, Conn. firm in the United States has just entered into a joint venture with a collective farm in Krasnagorsk, 15 miles north of Moscow to develop a suburban enclave of 528 townhouses for employees of foreign companies having offices in Moscow. The Americans will contribute the financing, the farm the land," by a 50 year lease with no payments for the first 10 years; at the end of the lease, the project will revert to the farm. The developers will build their own power station, sports center, tennis courts,and a boathouse. The New York Times, Real Estate Section, summer 1990.

21"Property ownership consists ofthe right toincome generated from property and to transfer one's control over the right to that income." Lane Kenworthy, "What Kind of Economic System? A Leftist's Guide." Socialist Review, 1990, 90/2, p. 103.

in default a mortgagee may be able to sell the property at a profit, but have no other incidents of ownership in it.

O. Housing may or may not be treated as a commodity; it could be either a use-value or an exchange value, and the legal system should reflect the distinction.

But in every complex industrialized society housing will be a commodity in certain respects, and not in others. While the definition of a commodity is a matter of disagreement (and even Marx provided varing usages for the term), housing is invariably produced for use by others than its producers, and payment for its use has invariably (till now) been required.

P. Recommodification is an description of what has been happening to housing in recent years in Western countries, decommodification an accurate description of a desirable public policy goal for such housing.

But "commodification" can be disaggregated in a number of legal components, and neither "recommodification" nor "decommodification" indicate which components are being talked about. If the suggestion is that housing was not at some point in recent times a commodity, or that it should now not be a commodity in any sense, the suggestion flies in the face of reality.

VIII. A systematic approach to policy options in countries in transistion from real existing socialism. The range of alternatives that could be considered for ownership forms may need to consider a number of variations, by:

a. What kind of property it is--land, housing, in production, etc.; see II. above.

b. What the present form of "ownership" of the property is--how are the various incidents of ownership,the rights, powers, privileges, and immunities, as to the property, divided up;

(c) Who it is that now "owns" the property--who has each incident of ownership, paying particular attention to who has the ability to use it, and who has the ability to make decisions affecating its future use;;

(d) Who it is that it is desired to "own" the property--who should be able to exercise each of the incidents of ownership connected with the property, paying particular attention s(for housing) to who should be able to occupy it, who should have the right to profit from changes in its value, and who should have the right to make decisions as to its future occupancy.

As an example, and for purposes of discussion only, it might be sensible to differentiate between land and buildings, as different types of property. It might be desirable to give all rights of use to the present occupants of the housing unit within the building, and the land used in connection with it, and for life. The right to dispose of the unit could rest with the muncipality, with the exception of a right to dispose, for life use only, to the immediate family of the current occupant. The right to dispose of the land might belong to the municipality, but subject to the power in the occupant to require alternate residential accommodations. Distinctions might be made by who the owner is, and how large the unit is, with those having exceptionally desirable units as a relsult of a priviliged position having fewer rights of continued occupancy than others. Obligations to maintain and repair might be placed either with a municipality or with a non-profit or resident-controlled entity. Duties to pay the costs of maintainance might be imposed on the occupant and/or the municipality, and might vary with who the occupant is, what type of household, what income, etc. Land not used in connection with housing and suitable forcommercial and/or industrial use might be allocated to a trusteeship-type entity, for disposition at market prices in accordance with municpally-exercised privileges to determine permissible uses in accordance with a community plan. And so on.

For policy purposes, then, the key steps in establishing the optimum ownership forms and their application in a given country consist of:

1. Determination of the desired provision of housing, within the constraints of the resources available, establishing minimum standards, desired distribution, constraints on location, physical form, costs, etc.;

2. Development of the appropriate legal forms of "ownership" which allocate the incidents of such ownership where, under step #1, they are desired;

3. Analysis of existing ownership patterns and patterns of use to determine which and whose should be changed to which and to whom.